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09/920,961	08/03/2001	Edwin Lyda	42159-023	5875

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EXAMINER

TRAN, HAI V

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/920,961	LYDA, EDWIN	
	Examiner	Art Unit	
	Hai Tran	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 8-12, 16 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 13-15, 17-21, and 23-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Reopened Prosecution

In view of the Appeal brief filed on 08/19/2005, PROSECUTION IS HEREBY REOPENED. A new Office Action is set forth below.

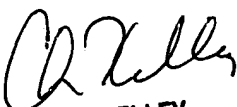
To avoid abandonment of the application, Applicant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then Applicant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

KELLEY CHRISTOPHER S.


CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Response to Arguments

Applicant's arguments filed 05/01/2006 have been fully considered but they are not persuasive.

Applicant argues (see Appeal Doc., page 6, lines 25-29), "In all cases, the Ferris device must receive display data before a user enter a selection related to the data displayed, and the display data the user views (an ad, a product offer, etc.) has been pre-selected and constructed by the broadcaster or "host." In all cases, the user is limited to "responding" to the data on the display; he cannot enter data he has constructed independently of the device."

In response, the Examiner respectfully disagrees with Applicant statement that "he cannot enter data he has constructed independently of the device" because

a) the scope of the claim does not require the user to enter data he has constructed independently of the device, as argued;

b) in Ferris, the user by answering/inputting his/her own choice of selection, Ferris's user is indeed, as broadly read, independently input/enter his/her own respond data;

c) Ferris also provides means for user to respond to any type of programming, i.e., Fig. 2A for electronic purchasing; Fig. 2D for user to choose certain acts of preference; Fig. 2G for a betting game... specifically, at least in one embodiment, Fig. 2L, Farris shows user could enter data he has constructed independently of the device, i.e., entering the product/vendor code.

Applicant further argues (see Appeal Doc., page 7, lines 5-8), "The response system does not download data to which a user responds. Instead, the user of the system himself initiates the inputting of a program code (and possibly, the user

code), and then enters his response to the program he has received apart from the device.”

In response, the Examiner respectfully disagrees with Applicant because Ferris in one embodiment, for example, by selecting a TV program “the tool show” from the menu of Fig. 2, for example, the user clearly himself initiates the inputting of a program code (TV channel number) that associates with the TV program “the tool show” (page 23, lines 1-7) and in one embodiment, if the handset is locked for allowing the user to purchase a product that associate with the currently TV program display on the TV device, the user himself initiates the inputting of a program code (PIN) thereby unlocking the access control of the handset (see Fig. 2L ; page 25, lines 15-19). Once the handset is unlocked, the user able to enter his desire to purchase a product (response) the program (“the tool show”) he has received on the television (apart from the device), see Fig. 4, lines 3-7.

Applicant further argues, (see Appeal Doc., page 7, lines 10-11) “the present invention is not required to have “on board” memory to hold the downloaded PAD data, nor does it have the associated problem of which pieces of PAD data to discard when new messages come in.”

In response to Applicant's argument, the features upon which Applicant relies (i.e., is not required to have “on board” memory to hold the downloaded PAD data, nor does it have the associated problem of which pieces of PAD data to discard when new messages come in) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification

are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant further argues, see Appeal Doc., page 7, lines 12-16, "The present invention can be effectively used with a low-cost paging network; it does not seem to be feasible to use the Ferris device with a paging network because paging networks are very low speed data networks which would have a difficult time transmitting all the PAD data required by the Ferris device."

In response, the Examiner respectfully disagrees with Applicant because Applicant "low-cost" paging network does not mean because the cost of appellant's network is low then Applicant's low-cost paging network has a different type of paging speed transmission or paging communication protocol as a paging network!

Applicant further argues, see Appeal Doc., page 7, lines 16-18, "Finally, the present invention does not ever require the sophisticated means for synchronizing the transmission of PAD data to the transmission from a primary broadcaster, such as Ferris describes in his alternate embodiment."

In response to Applicant's argument, the features upon which Applicant relies (i.e., does not ever require the sophisticated means for synchronizing the transmission of PAD data to the transmission from a primary broadcaster) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claims 1 and 2:

Applicant argues, see Appeal Doc., page 8, lines 1-4, "Ferris' "remote control device is used to respond to programming/television programming shows, i.e., tool show with option to buy a product received apart from the response device..."

However, this example does not involve a user's response to the show itself."

In response, the Examiner respectfully disagrees with Applicant because Applicant clearly misconstrues Ferris reference. Ferris clearly shows a (Fig. 4) that while viewing a TV program "the tool show", and in response to "the tool show" advertisements that offer user to buy the currently showing "power drill" on the TV screen, the user actually use the handset device to purchase the actual "power tool"! See Ferris Fig. 4.

Applicant further argues, see Appeal Doc., page 8, lines 9-16, "... The example used by the Examiner (Fig. 2L, page 27, ll.13-17) describes a device, which "prompts" the user to enter a product/vendor identification code, which initiates a remote query to display product information, instead it is simply input related to the display on the device. Nothing in Ferris suggests that a user can use the device to respond to anything other than PAD data displayed on the screen device."

In response, Applicant again misconstrues Ferris' s reference. Ferris 's Fig. 4, clearly discloses the user while viewing a TV program "the tool show", and in response to "the tool show" advertisements that offers user to buy the currently showing "power drill" on the TV screen, the user actually uses the handset device to perform the transaction of buying. In doing so, Ferris uses the handset to respond to

the purchasing offer of a power drill that is currently displaying on “the tool show” of the TV display.

Applicant further argues, see Appeal Doc., page 8, lines 17-page 9, lines 16, “... He stated that the “product/vendor code” constitutes the input of a program identifier code, and the user identifier code is the HUUID. Nowhere, did he find that Ferris’ microprocessor can correlate responses the user has entered into the device to the program identifier code, or that responses are processed by the microprocessor. Perhaps that is because there are no such examples in Ferris.”

In response, Applicant again and again misconstrues Ferris’s reference. The Examiner clearly states (see above rejection/previous office action claim 1) that by responding to the “product/vendor code” input through the handheld device on the basis of the information inputted by the user, the inputted “product/vendor code” is transmitted back to the central control station along with the HUUID (page 13, 3rd paragraph). In doing so, the inputted “product/vendor code” constitutes an input from the user of a program identifier code (PADUID) for the particular programming event (displays PAD) in which the user is responding along with the user identifier code associated with the remote device (HUUID); see page 13, 3rd paragraph). Thus, the processor 607 inherently does all of the above process.

Claims 15 and 21, Applicant argues, “the word interactive as used in Ferris has nothing to do with having a presenter interact with a viewer”

In response, the Examiner respectfully disagrees with Applicant because the presenter reads on the person, who performs an "interactive story lines" which interact with the audience, i.e., viewer or participant of the story line.

Claims 4-6, Applicant argues, "The modem the Examiner refers to does not call one of several telephone numbers, each having been associated with a particular response to the program, as described in the present invention."

In response to applicant argument, the Examiner respectfully disagrees because Applicant self-admitted that proposed Examiner's modem is able to at call at least a telephone number one at a time. As such, by combining the proposed Examiner's modem with Ferris 's interactive program and if each time a user interacts with each receiving interactive programs, i.e., each interactive program has its unique telephone number associated with it, then the proposed Examiner's modem will dial to the corresponding telephone number. In view of that the Examiner maintains the rejection.

Claim 5, Applicant argues, "Nothing in Ferris teaches or suggests use of its device with an Internet protocol system, and, therefore, his rejection on the basis of Official Notice should be set aside.

In response, the Examiner respectfully disagrees with Applicant because Ferris clearly suggest the use of Internet (see page 8, last paragraph).

Claim 25, applicant argues, "The paragraph he cites in Ferris merely describe how the user "unlocks" the device with a PIN, which can be preset for multiple users. This does not contains a suggestion that a user logs into a remote computer system before inputting responses."

In response, the Examiner respectfully disagrees with Applicant because one Ferris clearly suggest some kind of "logging" into the user database so that in order for a subscriber to be able to access particular "subscribing TV program show", the subscriber is required to login with his/her own user id to the remote provider for verification if he/she is a current subscriber in which the subscriber information is stored in the user database, as disclosed, see page 8, 3rd paragraph. In view of that the Examiner's proposed modification of using Lewis "so that the remote computer able to track all viewer currently log on the system" would NOT change the principle of Ferris's operation. Therefore, the Examiner maintains the rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-2, 13-15, 17, and 20-21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferris et al. (WO 99/04568).

Claim 1, Ferris discloses an electronic response device (Fig. 3, el. 417; Fig. 4-6) other than a personal computer, the response device configured to allow user to send data over a standard communication system (see Fig. 3), in response to a program received apart from the responsive device (the remote control device is used to respond to programming/"television programming show", i.e. tool show with option to buy a product, received apart from the response device, for example Ferris' s Fig. 4; page 23) ; the response device comprising:

a user input mechanism for entry of user input and responses (Fig. 5, el. 622 and Fig. 2L, page 27, lines 13-19);

means for requiring (input controller 611) the user's input of a program identifier code for the program received apart from the responsive device (the user able to interact with program-associated material as shown in Fig. 2A wherein the user must input "product/vendor code" in order to purchase a product, see Fig. 2L, page 27, lines 13-19; therefore, Ferris clearly respond to a program received apart from the response device);

means for providing a user identifier code, the means selected from the group consisting of having the identifier code associated with the response device and having the user input the user identifier code (reads on Ferris' s HUUID represents User Identification associated with the remote control device; see page 25; 4th paragraph; Fig. 2K).

a central processing unit (microprocessor 607) for correlating the responses the user has entered into the user input mechanism to the program identifier code

and for processing the program identifier code, the user identifier code, and responses the user has entered into the user input mechanism (reads on: by responding to the "product/vendor code" input through the handheld device on the basis of the information inputted by the user, the inputted "product/vendor code" is transmitted back to the central control station along with HUUID (page 13, 3rd paragraph). In doing so, the inputted "product/vendor code" constitutes an input from the user of a program identifier code (PADUID) for the particular programming event (displays PAD) in which the user is responding along with the user identifier code associated with the remote device (HUUID); see page 13, 3rd paragraph.)

a power source (inherently must have); and

a transmitter connected to the CPU (603 and 614).

Claim 2, Ferris further discloses wherein the input mechanism is selected from the group consisting of a keypad and voice recognition apparatus (Fig. 5, el. 622; page 15, 5th paragraph);

the transmitter comprises a two-way paging device (Fig. 5, el. 603; page 18; 2nd paragraph); and the communication system comprises a two-way paging system (page 12; 3rd paragraph).

Claim 13, method claim is analyzed with respect to apparatus claim 1, Ferris further discloses a method for receiving and processing responses to a program selected from the group consisting of radio broadcast, a television broadcast...(page

10, 8th paragraph) and collecting the response data at a central location; correlating the program identifier code to the responses; processing the response date (page 15, 1st paragraph; page 24, 1st-3rd paragraph).

Claim 14, Ferris further discloses sending the processed data to a presenter of the program for viewing (page 15, 1st paragraph and page 24, 3rd paragraph).

Claim 15, Ferris further discloses having the presenter of the program respond to the audience center (interactive story line; page 9, 4th paragraph).

Claim 17 is analyzed with respect to claim 2.

Claim 20, Ferris discloses a system for receiving and processing responses to a program selected from the group consisting of radio broadcast, a television broadcast...(page 10, 8th paragraph) comprising;

Providing a program identifier (PADUID) for a program being presented (page 13, 3rd paragraph);

Providing a user input device other than a personal computer (Fig. 3, el. 417; Fig. 4-6);

Having an audience member input the a program identifier code (PADUID) into the user input device (Ferris' s PAD constitutes an offering/object displayable to user and requires user to express interaction with the PAD through the handheld

device on the basis of the information so displayed. By interacting with the presented PAD, the selected PAD is transmitted back to the central control station along with HUUID and PADUID (page 13, 3rd paragraph). In doing so, the selected PAD includes HUUID and PADUID constitutes an input from the user of a program identifier code (PADUID) for the particular programming event (displays PAD) in which the user is responding along with the user identifier code associated with the remote device (HUUID); see page 13, 3rd paragraph);

Having an audience member input response into the user input device (Fig. 5, el. 622; page 15, 1st and 5th paragraph);

Transmitting the program identifier and the response data associated with a user identifier over a standard communication system (page 12; 3rd paragraph).;

Collecting, correlating and processing the program identifier and the responses (page 15, 1st paragraph; page 24, 1st-3rd paragraph);

Routing the responses to a program presenter (interactive story line; page 9, 4th paragraph).

Claim 21, Ferris further discloses having the presenter respond to the audience member (interactive story line; page 9, 4th paragraph).

Claim 23 is analyzed with respect to claim 2.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris et al. (WO 99/04568) in view of Dobson (US 6704317).

Claim 3, Ferris further discloses wherein the input mechanism is selected from the group consisting of a keypad and voice recognition apparatus (Fig. 5, el. 622; page 15, 5th paragraph);

Ferris does not clearly disclose the transmitter is configured to send data burst over standard telephone lines; and the communicating system comprises a plain old telephone system.

Dobson discloses the transmitter is configured to send data burst over standard telephone lines; and the communicating system comprises a plain old telephone system (Col. 10, lines 25-33); Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ferris to have Ferris' s transmitter configured to send data burst over standard telephone lines; and the communicating system comprises a plain old telephone system, as taught by Dobson, so that any communication device on the network may transmit

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data to the public network by way of multi-point transceiver and the POTS modem transceiver (Col. 4, lines 1-6).

3. Claims 4, 5, 6, 18 and 24 are rejected under 35 U.S.C. 103(a) as being obvious over Ferris et al. (WO 99/04568).

Claim 4, Ferris discloses wherein the input mechanism is selected from the group consisting of a keypad and voice recognition apparatus (Fig. 5, el. 622; page 15, 5th paragraph); Ferris further discloses the outbound PAD could be transmitted using 'data-hiding' technology associated with a response to the program over any types of communication network (pages 12-14).

Ferris does not disclose the transmitter is configured to call telephone numbers each of the telephones numbers having been associated with a particular response to the program; and the communication system comprises a plain old telephone system.

Official Notice is taken that having a remote control with integrated modem with associated call number for communication purpose using of a plain old telephone system is notoriously well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ferris to have an integrated modem built in the handheld device so to provide to user an alternative way to communicate with the service provider beside of the two-way paging network.

Claims 5 and 6 Ferris further disclose wherein the input mechanism is selected from the group consisting of keypad and voice recognition apparatus (Fig. 5, el. 622; page 15, 5th paragraph) and the request might be sent over the Internet (see page 14; 4th/last paragraph).

Ferris does not disclose the transmitter comprises a wireless Internet protocol device, and the communication system comprises Internet protocol systems; wherein the Internet protocol system further communicates with a telecommunication system.

Official Notice is taken that having a remote control with integrated wireless modem for communication purpose through Internet in which the Internet network is in communication with a telecommunication network is notoriously well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ferris to have an integrated wireless modem built in the handheld device so to provide to user an alternative way to communicate with the service provider through Internet network beside of the two-way paging network.

Claim 18 is analyzed with respect to claim 4.

Claim 24 is analyzed with respect to claim 4.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris et al. (WO 99/04568) in view of Yoshinobu et al. (US 5721584).

Claim 7, Ferris shows activities (alert with flashing led 10) during connectivity (page 22, 6th paragraph) during communication.

Ferris does not clearly disclose an indicator for indicating the connection status of the electronic response device to a communication system;

Yoshinobu discloses an indicator for indicating the connection status of the electronic response device to a communication system (Col. 12, lines 22-30 and col. 18, lines 1-11). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ferris with Yoshinobu so to provide to user a way to detect the condition (Connect or Not connect) of the communication process between two communication devices.

5. Claims 19 and 25 are rejected under 35 U.S.C. 103(a) as unpatentable over Ferris et al. in view of Lewis et al (US 5303042).

Claims 19 and 25, Ferris discloses the users log on the keypad device (page 25, 3rd and 4th paragraph) and see page 8, 3rd paragraph in which Ferris suggests that the system has some type of logging the interaction in a user database.

Ferris does not clearly disclose the audience member log into a remote computer system before inputting data into the user input device;

Lewis discloses the audience member log into a remote computer system before inputting data into the user input device. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to

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modify Ferris with Lewis so that the remote computer able to track all viewer currently log on the system (Col. 8, lines 25-45).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (571) 272-7305. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HT:ht
07/06/2006


HAI TRAN
PRIMARY EXAMINER